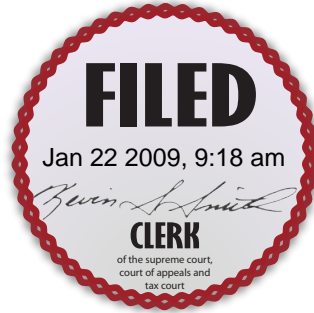


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

IN RE THE MATTER OF THE INVOLUNTARY)
TERMINATION OF THE PARENT-CHILD)
RELATIONSHIP OF B.M., and R.M., Minor)
Children, and)

MARCITA M., Mother,)
)
Appellant-Respondent,)

vs.)

MARION COUNTY DEPARTMENT OF)
CHILD SERVICES,)

Appellee-Petitioner,)

CHILD ADVOCATES, INC.,)

Co-Appellee-Guardian ad Litem.)

No. 49A02-0805-JV-450

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Marilyn Moores, Judge
The Honorable Danielle Gaughan, Magistrate
Cause No. 49D09-0605-JT-50265

January 22, 2009

MEMORANDUM DECISION – NOT FOR PUBLICATION

MAY, Judge

Marcita M. (“Mother”) appeals the termination of her parental rights to her twin daughters, B.N.M. and R.N.M, claiming Marion County Department of Child Services (“MCDCS”) lacked the authority to pursue its petition for involuntary termination once Mother tendered a consent to adoption. We affirm.

FACTS AND PROCEDURAL HISTORY

Mother is the biological mother of B.N.M. and R.N.M. (collectively, “the twins”), born on January 27, 2007.¹ On or about February 2, 2007, MCDCS conducted an investigation and determined the twins to be in need of services because B.N.M. tested positive for cocaine at birth. The twins were taken into emergency protective custody. On February 9, MCDCS filed a petition alleging the twins were children in need of services (“CHINS”). An initial hearing on the CHINS petition was held on the same day. After determining there was probable cause to believe the twins were CHINS, the court ordered the children be made temporary wards of MCDCS.²

A fact-finding hearing on the CHINS petition was held on April 13, 2007, after which the court found B.N.M. and R.N.M. to be CHINS. A dispositional hearing was held on May 25, 2007, and the juvenile court issued its dispositional order formally

¹ The parental rights of the twins’ father, Vandale W. (“Father”), were also terminated by the juvenile court. Father does not participate in this appeal.

² This was not Mother’s first encounter with MCDCS. Mother had four additional older children who were all removed from her care due to neglect and substance abuse. Mother failed to complete court-ordered services in all four cases and her parental rights were eventually terminated. All four older children were subsequently adopted.

removing the twins from Mother's care. Mother was ordered to participate in a variety of services in order to achieve reunification with her children, including: (1) secure and maintain a legal source of stable income and suitable housing, (2) participate in age-appropriate parenting classes, (3) complete a drug and alcohol assessment and follow all resulting recommendations, (4) successfully complete a substance abuse program and follow up treatment, (5) submit to random drug screens, and (6) exercise consistent visitation with the twins as recommended by MCDACS.

Mother failed to comply with court-ordered services and on November 27, 2007, MCDACS filed a petition for the involuntary termination of Mother's parental rights to the twins. A fact-finding hearing on the termination petition commenced on March 7, 2008. At the beginning of the hearing, Mother informed the court that she had signed a voluntary consent for adoption of the twins by their current caregivers, and she requested that the involuntary termination hearing be continued. MCDACS objected to Mother's motion, refused to accept the tendered consent for adoption forms, and requested that the involuntary termination hearing proceed as scheduled. The juvenile court denied Mother's motion and ordered the termination hearing to proceed.

At the time of the termination hearing, Mother was unemployed, living in a homeless shelter, and had not visited with the children since October 2007. She had also failed to submit to random drug screens and had failed to complete drug and alcohol treatment. The hearing was concluded after a second day of evidence on April 14, 2008. Mother did not appear for the second day of trial, but her counsel was present.

At the conclusion of the termination hearing, the juvenile court took the matter under advisement. On April 23, 2008, the court issued its judgment terminating Mother's parental rights to the twins.

DISCUSSION AND DECISION

Mother's sole allegation on appeal is that MCDCS lacked the authority to continue to pursue the involuntary termination of her parental rights to the twins because she had executed consents for their adoption and was thus "in the process" of voluntarily relinquishing her parental rights. (Appellant's Br. at 5.) Mother offers no legal authority to support this allegation of error, and we therefore decline to address it. *See, e.g., Smith v. State*, 822 N.E.2d 193, 202-03 (Ind. Ct. App. 2005) (party waives any issue raised on appeal where the party fails to develop a cogent argument or provide adequate citation to authority and portions of the record). *And see* Ind. Appellate Rule 46(A)(8)(a) ("[e]ach contention must be supported by citations to the authorities, statutes, and the appendix or parts of the Record on Appeal relied on, in accordance with Rule 22.").

Notwithstanding the waiver, we decline Mother's invitation to equate a consent to adoption with a consent to termination of parental rights. The interplay between a consent to adoption and a termination of parental rights was addressed recently in *A.D.R. v. J.L.H.*, 994 So.2d 177 (Miss. 2008). There, as here, the mother signed a Consent to Adoption to surrender her child for adoption by specific named persons:

Taking the document as a whole, the plain meaning of the Consent to Adoption is not to terminate Rogers' parental rights generally or absolutely. The document terminates her rights *to the extent necessary to have the Fosters adopt her child*. Thus, by signing the Consent to Adoption, Rogers was only consenting to the adoption of her child by the Fosters and

terminating her parental rights as against the Fosters [T]he chancellor erred by drawing the legal conclusion that Rogers' Consent to Adoption irrevocably terminated her rights to the child as against all others. Rogers' Consent to Adoption clearly terminated her rights to the child vis-à-vis the Fosters, but the legal precedent does not dictate that such consent *should irrevocably terminate parental rights generally*, or otherwise subjugate them with respect to individuals other than the intended adopting individuals.

Id. at 182-83 (emphasis supplied).

Mother has not convinced us the result should be different under our statutory scheme. *Compare* Ind. Code § 31-19-15-1 (biological parent's legal rights, duties and obligations to the adopted child are not divested until *after* adoption) with Ind. Code § 31-35-1-10 (if court determines the allegations in a petition for voluntary termination of parent-child relationship are true, it "shall terminate the parent-child relationship").

On appeal, the burden of showing reversible error is on the appellant. *In re K.H.*, 838 N.E.2d 477, 480 (Ind. Ct. App. 2005). Moreover, "[a]ll reasonable presumptions are indulged in favor of the rulings and judgment of the trial court." *Id.* Mother has failed to carry her burden. We therefore affirm the juvenile court's judgment.

Affirmed.

BRADFORD, J., and FREIDLANDER, J., concur.